

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Curt Hébert, Jr., Chairman;
William L. Massey, Linda Breathitt,
and Pat Wood, III.

PJM Interconnection, L.L.C.
Allegheny Electric Cooperative, Inc.
Atlantic City Electric Company
Baltimore Gas & Electric Company
Delmarva Power & Light Company
Jersey Central Power & Light Company
Metropolitan Edison Company
PECO Energy Company
Pennsylvania Electric Company
PPL Electric Utilities Corporation
Potomac Electric Power Company
Public Service Electric & Gas Company
UGI Utilities Inc.

Docket No. RT01-2-000

ORDER PROVISIONALLY GRANTING RTO STATUS

(Issued July 12, 2001)

On October 11, 2000, the PJM transmission owners (TOs)¹ and PJM Interconnection, L.L.C. (PJM) jointly submitted a compliance filing to comply with Order No. 2000.² PJM states that under its current structure as an approved independent system operator (ISO), it satisfies all of the required characteristics and functions of a Regional Transmission

¹The TOs are Allegheny Electric Cooperative, Inc., Atlantic City Electric Company, Baltimore Gas & Electric Company, Delmarva Power & Light Company, Jersey Central Power & Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, PPL Electric Utilities Corporation, Potomac Electric Power Company, Public Service Electric & Gas Company, and UGI Utilities Inc.

²Regional Transmission Organizations, 65 FR 809 (January 6, 2000), FERC Stats. & Regs. ¶ 31,089 (1999), order on reh'g, Order No. 2000-A, 65 FR 12,088 (March 8, 2000), FERC Stats. & Regs. ¶ 31,092 (2000), petitions for review pending sub nom., Public Utility District No. 1 of Snohomish County, Washington v. FERC, Nos. 00-1174, et al. (D.C. Cir.).

Organization (RTO). PJM requests that the Commission find that it satisfies Order No. 2000 criteria and approve PJM as an RTO.

For the reasons discussed below, we find that PJM's RTO proposal satisfies many of the criteria required under Order No. 2000 for RTO status. PJM has operational authority over all the facilities under its control, and its existing operations meet the criteria for maintaining short-term reliability. In addition, under PJM's existing PJM Open Access Transmission Tariff (OATT or Tariff) and PJM Operating Agreement, PJM is the sole administrator and transmission provider, PJM provides ancillary services, and PJM is the sole OASIS site administrator. However, unlike the New England TOs, PJM TOs have not proposed to restructure to ensure independence. We are encouraged by the substantial progress that PJM has made with respect to each of the twelve characteristics and functions required by Order No. 2000. Accordingly, we will grant PJM provisional RTO status, subject to the changes we are directing below.

The Commission has been attempting to facilitate the development of large, regional transmission organizations reflecting natural markets since we issued Order No. 2000. We favor the development of one RTO for the Northeast, one RTO for the Midwest, one RTO for the Southeast and one RTO for the West. Through their independence from market participants, RTOs can ensure truly non-discriminatory transmission service and will instill confidence in the market that will support the billions of dollars of capital investment in generation and demand side projects necessary to support a robust, reliable and competitive electricity marketplace. RTOs are the platform upon which our expectations of the substantial generation cost savings to American customers are based.

While there will be "start up" costs in forming a larger RTO, over the longer term, large RTOs will foster market development, will provide increased reliability, and will result in lower wholesale electricity prices. However, these savings will be delayed, perhaps significantly, if RTOs are permitted to develop incompatible structures and systems, or if we approve RTOs that do not encompass wholesale market trading patterns. Accordingly, we today direct the parties in the Northeast and Southeast to mediation, under an expedited schedule.

I. Background

In Order No. 2000, the Commission recognized that there continue to be important transmission-related impediments to a competitive wholesale electric market. These impediments include the engineering and economic inefficiencies inherent in the current operation and expansion of the transmission grid and the continuing opportunities for transmission owners to unduly discriminate in the operation of their transmission systems to

favor their own or their affiliates' power marketing activities.³ The engineering and economic inefficiencies the Commission identified and sought to address in Order No. 2000 resulted from the lack of regional coordination of an interconnected transmission grid.⁴ The Commission concluded that a properly structured RTO could provide significant benefits in the operation of the transmission grid. A successful RTO would, through transmission grid management, improve grid reliability, remove remaining opportunities for discriminatory transmission practices, improve market performance, and facilitate lighter handed regulation.⁵ These efficiencies would include, among other things, regional transmission pricing, improved congestion management of the grid, more accurate total transmission capability (TTC) and available transmission capability (ATC) calculations, more effective management of parallel path flows, reduced transaction costs, and facilitation of state retail access programs.⁶

In order for an RTO to adequately address regional operational and reliability issues, the Commission stated in Order No. 2000 that, at a minimum, an RTO must satisfy four characteristics: independence, scope and regional configuration, operational authority and short-term reliability. In addition, the RTO would be required to perform eight functions: tariff administration and design, congestion management, parallel path flow, ancillary services, OASIS and TTC and ATC, market monitoring, planning and expansion and interregional coordination.⁷

PJM states that it meets all of the characteristics of an RTO. PJM includes as among its strengths for RTO status, its preexisting status as a successful ISO, its independent board, its successful administration of the PJM Tariff and PJM Operating Agreement, and its congestion management system. With respect to scope and configuration, PJM states that it also meets the requirements of Order No. 2000. PJM also contends that it has taken the lead on interregional issues because it plans to join with its neighbor to the west, the Allegheny Power System operating companies and possibly Duquesne Light Company (Duquesne).⁸ In addition, PJM states that it has entered into a Memorandum of Understanding (MOU) with

³Id., FERC Stats. & Regs. ¶ 31,089 at 31,003.

⁴Id. at 31,004.

⁵Id. at 31,017.

⁶Id. at note 99.

⁷Id. at 30,993-94.

⁸This proposed expansion, referred to as "PJM West," is addressed in PJM Interconnection, L.L.C., et al., 95 FERC ¶ 61,____ (2001), issued concurrently with this order.

the New York ISO (NYISO), ISO New England, and Ontario's Independent Electricity Market Operator to work to resolve seams issues in the Northeast and beyond.

II. Notice of Filing and Interventions

Notice of filing was published in the Federal Register, 65 Fed Reg 64,212 (2000), with comments, protests or interventions due on or before November 20, 2000. Motions to intervene, comments and protests were filed by the parties listed in the appendix. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2000), the timely, unopposed motions to intervene and the notices of intervention by state Commissions serve to make the intervenors listed in the appendix parties to this proceeding. Further, the motion to intervene out-of-time is granted because it does not prejudice any party or cause undue delay in the proceeding.

On November 20, 2000, WASA filed (along with an intervention and comments) a request for technical conference. Potomac Electric Power Company filed an answer to WASA's request for technical conference on December 5, 2000. WASA filed an answer to PEPCO's answer on December 20, 2000. For the reasons discussed below, WASA's request for a technical conference is denied.

On November 21, 2000, the Maryland Commission filed a motion to strike/reject as factually deficient PJM's rate proposal set forth in its compliance filing or, alternatively, set the matter for hearing. On December 5, 2000, the PJM TOs filed an answer to the motion to reject; and to intervenors' comments on the PJM compliance filing.⁹ In a December 20, 2000 filing, Joint Consumer Advocates request that the Commission either strike the PJM transmission owners' answer or, if the answer is accepted, to consider Joint Consumer Advocates reply comments.

We accept PJM's answer and Joint Consumer Advocates' reply comments. These pleadings clarify the arguments and enhance our understanding of the proceeding. However, the requests that the Commission summarily reject PJM's filing (or portions thereof) are denied for the reasons discussed below in this order.

In addition, PJM filed a separate answer to protests and comments on December 5, 2000. TransEnergie filed an answer to PJM's answer on December 21, 2000.

On December 14, 2000, Southern Generators filed a motion for leave to file a supplemental protest. On December 26, 2000, MAPSA filed a motion for leave to

⁹In its filing, PJM also responds to the protests of ODEC and Joint Consumer Advocates that request the Commission to summarily reject PJM's compliance filing.

supplement its preliminary comments and to protest. We accept the answers of PJM and TransEnergie and the supplemental filings of Southern Generators and MAPSA. These pleadings clarify the arguments and enhance our understanding of the proceeding.

On February 23, 2001, Enron filed a late protest and a motion to appoint a settlement judge and consolidate the three RTO compliance filings filed by NYISO (Docket No. RT01-95-000), ISO New England (Docket No. RT01-86-000) and PJM. Enron asks the Commission to reject the three Northeast RTO proposals because the Northeast is one regional market, not three. Edison filed comments in support of Enron's motion. PJM and PJM Industrial Customers filed comments supporting the motion to appoint a settlement judge to assist in the formation of one Northeast RTO, but first want the Commission to approve PJM's RTO compliance filing. Shell filed comments supporting the merger of NYISO and ISO New England as one RTO. ISO New England and NECPUC filed answers and Joint Consumer Advocates filed comments in opposition to Enron's motion. The New York Commission filed an answer and comments opposing Enron's motion stating that a "virtual" RTO should be established and adequately assessed before consideration is given to establishing a single RTO. On April 23, 2001, Enron supplemented its pleading. We will accept Enron's late protest and motion for consideration and also the pleadings filed by the various parties in response to this protest. These pleadings clarify the issues and enhance our understanding of the proceeding. However, Enron's request that we appoint a settlement judge is denied for reasons discussed in this order, supra.

III. RTO Characteristics

RTO Characteristic No. 1: Independence

The RTO must be independent of any market participant

1. PJM's Proposal

PJM states that its existing governance structure and decision-making process satisfy the independence criteria. Pursuant to the terms of the PJM Operating Agreement, neither PJM, the PJM Board of Managers (PJM Board), nor PJM's employees have financial interests in or affiliation with any market participant. PJM states that it does not own stock in any market participant, nor does it own any transmission facilities or any generation resources. According to PJM, the Board, which manages PJM, is a non-stakeholder board and, thus, its decisionmaking process is independent of control by any market participant or class of participants. The PJM Members Committee, which elects the PJM Board, conducts

its business by sector vote. PJM adds that it has the independent right to amend its Tariff.¹⁰ In addition, PJM states that it has exclusive and independent control over recovery of its own costs, with section 205 authority to file rate changes for recovery of its own costs, making it financially self-sufficient. PJM also commits to conduct a compliance audit of the independence of its decision-making process within two years of approval.

PJM proposes to retain the currently effective Reliability Assurance Agreement (RAA), which is an agreement among the load serving entities (LSEs)¹¹ within PJM's control area. The RAA provides for the shared and coordinated planning of sufficient installed capacity to provide reliable service to loads in the PJM control area.¹² The RAA is managed by the Reliability Committee which consists of a voting representative from each LSE and a non-voting representative of PJM's Office of Interconnection. Changes to the RAA require a majority vote or in some cases a two-thirds majority vote. The PJM Office of Interconnection may request reconsideration of any decision or inability to decide a matter of the Reliability Committee. If the Reliability Committee does not agree, then PJM may file a section 206 filing.

2. Intervenors' Comments

Numerous intervenors take issue with PJM's RAA because it limits membership on the Reliability Committee to only LSEs, leaving all other market participants (generation owners, end-use customers, transmission owners and distribution companies) unable to impact reliability decisions. Intervenors suggest that reliability cannot be separated from other issues that involve all market participants, noting particularly that reliability decisions can affect the value of generating resources in the market. Dynegy, EPSA and Reliant contend that the RAA should be amended to give all market participants membership and voting rights in the Reliability Committee. American Wind suggests that PJM either transfer governance under the RAA to the PJM Board or permit all entities to participate in the Reliability Committee. Southern Generators and Williams suggest that the governance responsibilities be transferred to the Members Committee.

¹⁰Members Committee approval is required before PJM can make revisions to the PJM Operating Agreement and other agreements under section 205 of the Federal Power Act (FPA).

¹¹Generators or marketers selling power at retail to loads within PJM's control area.

¹²The RAA includes procedures to determine the pool-wide installed generation capacity needed to meet load, each member's contribution to the pool-wide generation requirement, and compliance and enforcement provisions related to generation reliability, including deficiency charges.

Shell notes that Order No. 2000 requires that RTOs “need to be independent in both perception and reality.”¹³ Shell claims that, contrary to this requirement, PJM's incumbent utilities appear to have the ability to exercise undue influence over the PJM governance structure, from user groups to the PJM Board. Shell claims that the PJM Board has “ties and loyalties” to the utility sector which is not evident in the governance or voting structure. Additionally, Williams requests that the Commission require a change in the composition of the PJM Board to include balanced stakeholder representation, arguing that the board must be reflective of its constituency and that, absent this, “valuable knowledge” of market participants is not properly considered.

Joint Consumer Advocates argue that the PJM Operating Agreement must be revised to allow voting representation of small consumers in the Members Committee. They add that there are significant barriers for small retail customers to become voting members of PJM, including the \$5,000 annual membership fee and the liability a member assumes by being part of a limited liability company. Joint Consumer Advocates also state that, as currently structured, entities with primary interests other than those of the retail consumers are permitted to vote in the End-Use sector of the Members Committee, which dilutes the vote of the retail end-use customers. Specifically, they note that power marketers are included in this sector, though their primary interests lie elsewhere. Accordingly, they argue that the Commission should require PJM to tighten the definition of entities eligible to participate in the End-Use sector to those whose primary interest is end-use.

3. PJM's Response

In its answer, PJM states that the issue of small end-use customer voting rights was rejected by the PJM Members Committee and is now before the PJM Board. In addition, PJM suggests that the Commission not address revisions to membership on the Reliability Committee, arguing that a PJM stakeholder group is broadly looking at future rules for installed generating capacity and that the governance issue should be reviewed in this context.

4. Discussion

Order No. 2000 establishes the following independence requirement:

¹³Order No. 2000 at 31,061.

The [RTO] must be independent of any market participant. The [RTO] must include, as part of its demonstration of independence, a demonstration that it meets the following: (i) The [RTO], its employees, and any non-stakeholder directors must not have financial interests in any market participant. (ii) The [RTO] must have a decision making process that is independent of control by any market participant or class of participants. (iii) The [RTO] must have exclusive and independent authority under section 205 of the Federal Power Act . . . to propose rates, terms and conditions of transmission service . . .^[14]

In most respects, PJM's existing design complies with this characteristic. PJM's design for its existing ISO was founded on independence from market participants. PJM's Board was structured to be independent of control by any market participant.¹⁵ In many areas, PJM's Board has independent authority to make changes in its tariffs and market rules. However, as noted by the intervenors, the PJM Board does not have such independent authority with regard to matters that are governed by the RAA. These include setting the forecast pool requirements for a planning period, the charges for capacity deficiencies, and the allowable levels of active load management for a party and for the PJM control area.

¹⁴18 C.F.R. § 35.34(j)(1) (2000).

¹⁵We reject William's generic criticism that stakeholders should be allowed on RTO governing boards. Order No. 2000 indicated the acceptability of non-stakeholder board proposals based on our experience with ISOs. Order No. 2000, at 31,074. See also GridFlorida LLC, et al., 94 FERC ¶ 61,020 at 61,046 (2001) (GridFlorida I).

Further, we deny the protests regarding the membership fees. In Pennsylvania-New Jersey-Maryland Interconnection, 81 FERC ¶ 61,257 at 62,265 (1997), reh'g denied, 92 FERC ¶ 61,282 (2000) (PJM), the Commission found that the proposed \$1,500 application and the \$5,000 annual membership fee were not excessive nor would the fees preclude residential and small industrial customers from joining the ISO. The Commission agreed that some small fee is required to ensure that applicants have a financial interest in the ISO, and that nothing precludes a group of residential customers from establishing an organization (or designating an agent) that could pay the application fee and associated annual dues and represent their collective interest on the Members Committee. Since then, on April 13, 2001, in Docket No. ER01-1372-000, we accepted changes to PJM's Operating Agreement. The changes allowed state consumer advocates to join the PJM Members Committee as voting members and reduced the annual membership fees to state consumer advocates to \$500.

We agree with intervenors that allowing the LSEs rather than PJM to set the region-wide capacity reserve requirements is inconsistent with Order No. 2000.¹⁶ Under the RTO proposal, the PJM Board is independent of market participants, while the LSEs are market participants. However, through the RAA, the LSEs are given the exclusive responsibility of setting reliability requirements and penalties that affect the energy markets administered by PJM. For example, the current capacity resource obligations and capacity deficiency charges, which are intended to ensure the reliability of PJM's markets are set exclusively by the LSEs under the RAA. To comply with Order No. 2000, the PJM Board must have the exclusive authority to propose changes to these reliability requirements under section 205 of the FPA.¹⁷ The Reliability Committee may continue to play a role in setting these reliability requirements. However, that role should be an advisory role to the PJM Board, rather than the current decisional role. Additionally, PJM should review the membership on the Reliability Committee to study the feasibility of expanding membership to more market participants. PJM must address these changes to the RAA and the Reliability Committee in its compliance filing.

RTO Characteristic No. 2: Scope and Regional Configuration

The RTO must serve an appropriate region.

1. PJM's Proposal

PJM asserts that its size permits it to effectively perform the required functions of an RTO and to support efficient and nondiscriminatory power markets. However, PJM states that, while its current size qualifies it for approval as an RTO, this does not mean that its current size is beyond modification.¹⁸

PJM points to a plethora of factors which it suggests are indicative of its being of sufficient scope in its current form: it is the largest centrally dispatched control area in the nation (and third largest in the world) covering all or part of five states plus the District of Columbia (an area containing a population totaling 23 million people) with 58,000 MW of

¹⁶This limited finding is not intended to intrude upon the states' traditional role in setting generation reserve requirements for load serving entities, e.g., maintenance of specific reserve requirements.

¹⁷See for example the complaint filed by PJM in Docket No. EL01-63-000. In this docket, PJM has filed a complaint to amend the RAA provisions regarding capacity resources and capacity deficiency charges. It is contrary to the basic principles of Order No. 2000 for an RTO to have to file a section 206 complaint to revise its reliability criteria.

¹⁸PJM's Order No. 2000 compliance filing at p. 21.

generation and a peak load in 1999 of 51,700 MW, 8,000 miles of high voltage transmission lines, and over 180 members. PJM notes that these figures represent 7.5% of U.S. peak load, 7.4% of U.S. energy, 7.8% of U.S. capability, and 8.7% of U.S. population. It adds that its control area includes all of the Mid-Atlantic Area Council (MAAC) reliability region. Further, PJM notes that, by virtue of its ISO status, it already has in place Commission-approved measures to adequately address within its borders ATC, loop flow, transmission congestion management, rate pancaking, improving operations, and planning and coordinating transmission expansion.

PJM also claims that its scope recognizes trading patterns since it encompasses the historical boundaries of a the tight power pool from which it evolved. It notes that during 1999 it had 180 members, over 350 million MWH of transmission service requests, 120 million MWH of scheduled energy transactions, and interconnection requests of 39,000 MW. PJM has an installed capacity of 58,000 MW.

In addition, PJM notes that its recently proposed alliance with Allegheny Power would extend PJM's energy markets, congestion management, and single transmission tariff to include Allegheny Power's transmission system under PJM West. PJM also states that it is open to considering expansions to its control area, new multiple control area arrangements, or "strategic alignments" with other RTOs.

In addition, PJM states that a memorandum of understanding (MOU) with the NYISO, ISO New England, and Ontario's Independent Electricity Market Operator represents a vehicle for addressing various seams issues. PJM states that it is committed to speeding the evolution towards seamless management of transmission and generation markets in the Northeast and beyond. PJM adds that it will file a report on the MOU every six months.

2. Intervenor's Comments

Numerous intervenors insist that PJM's scope, coupled with its interregional coordination, is insufficient. The majority of intervenors express extreme displeasure at the slow pace of, and lack of, results from the MOU process and are adamant that a single northeast RTO, which would include NYISO and ISO New England, is necessary to meet the Order No. 2000 requirements with respect to scope.¹⁹ While a few intervenors include cursory statements in support of PJM's scope, even they advocate that, at a minimum, the

¹⁹Duke, Enron, Industrial Consumers, MAPSA, Reliant, Shell, Southern Generators, and Williams.

existence of a single northeastern market requires Commission intervention to achieve greater coordination between the existing ISOs.²⁰

Industrial Customers note that PJM has not changed its borders for decades and that, while that configuration may have made sense in the “horse and buggy” days, it is now too small. Duke asserts that PJM has neither explained its conclusion that its current size is acceptable nor has it explained why the appropriate size for an RTO is not the entire Northeast, or perhaps the entire Eastern Interconnection. Williams points to the physical flows and existing markets as demanding a single Northeast RTO and requests that the Commission reconsider its earlier position against developing and establishing RTO configurations and boundaries. Enron suggests that the magnitude of PJM's imports (22,600,000 MWH) and exports of (18,400,000 MWH) is evidence that PJM is only a part of a larger, highly interconnected area of established trading patterns.

Reliant notes that the Commission should, at a minimum, order PJM, along with NYISO and ISO New England, to explain why a merger of the three ISOs is not being proposed. Similarly, Industrial Consumers state that the Commission should set a milestone date by which the three ISOs should achieve seamless coordination or show cause why they should not be merged. Shell would require details regarding a proposed single RTO which would also include Allegheny Power and Alliance.

Southern Generators assert that PJM's willingness to undertake a “strategic alignment” with other RTOs as a means towards expansion is insufficient and the Commission must combine the three ISOs using the proposed PJM West single market/multiple control area model. Southern Generators suggest that PJM be the starting point for the larger RTO as its markets are larger and more successful than those in NYISO and ISO New England, it has “off-the-shelf” software, the governance process has been more harmonious, and the PJM leadership operates markets without favoring demand over supply. Southern Generators points to a variety of benefits of a single RTO including: consistent market rules, one bureaucracy, more balanced governance (if the PJM model is used), increased liquidity of bid-based markets, consistent congestion management, standardized interconnection policies, uniform demand-side response programs, and reserve sharing.

Enron states in its motion to appoint a settlement judge that the Northeast should be one RTO, not three. Enron believes that a settlement judge is needed to develop milestones for achieving the various steps needed for unification of the three Northeast ISOs. If the three RTO proposals are accepted, Enron states that they should only be accepted on condition that they unite promptly, no later than Fall 2002. Various parties filed answers and comments either in support or in opposition to Enron's protest and motion.

²⁰HQUS, Morgan Stanley, and Ontario Power.

3. PJM's Response

In its answer, PJM reiterates that its current scope is sufficient, it is expanding to the west by its addition of Allegheny Power and, possibly, Duquesne under PJM West, and that it is “strongly committed” to interregional coordination. PJM opposes Enron's comments that it does not qualify as an RTO, and encourages the Commission not to delay approval of PJM's request for RTO status. PJM does not object to Enron's suggestion that the Commission institute additional processes to facilitate discussions among the three Northeast ISOs and interested market participants.

4. Discussion

The existence of three separate ISOs in the Northeast with three sets of rules and structures has resulted in a balkanized market that does not encourage trade across the seams or increase efficiencies over and above the tight power pool structure that predated the ISOs. Worse still, absent a course correction, this fragmented market may continue for years to come. We conclude that although the three Northeastern ISOs have some similar features, they are not sufficiently compatible to permit market participants to fully exploit efficient trading opportunities necessary to achieve a competitive bulk power market in the Northeast region. Thus, we will not permit three RTOs in the Northeast. At a minimum, we conclude that a competitive bulk power market in the Northeast requires a unified approach to RTO formation.

Therefore, we believe it is not reasonable for the three ISOs to continue to spend considerable time and money to refine their own separate structures. Rather, we find that it is more effective to devote the resources of all market segments to a single RTO, which would prevent the possibility of continued internal changes by ISOs that do not enhance, and may hinder, efficient trade across the Northeast.

The Commission finds that PJM's RTO proposal, while not ideal with respect to scope and regional configuration, represents a good first step toward the creation of an RTO in the Northeast region. PJM's RTO proposal can serve as a platform for the formation of one RTO in the Northeast, since we are contemporaneously denying ISO New England's and NYISO's Order No. 2000 compliance filings.²¹ We will provisionally accept PJM's scope as a starting point, and we strongly encourage formation of one Northeast RTO encompassing PJM, NYISO, and ISO New England. Along these lines, we encourage the three ISOs to look at the best practices in all three ISOs to develop market rules for a Northeast RTO. While we would expect that PJM will be the platform for forming a single Northeast RTO, we also

²¹ISO New England Inc., et al., Docket No. RT01-86-000, and New York Independent System Operator, Inc., et al., Docket No. RT01-95-000 both filed on January 16, 2001.

would expect the RTO proposal to incorporate the best practices of the NYISO and ISO New England.

We also emphasize that PJM should continue to expand in the region in addition to the potential addition of Allegheny Power and Duquesne as PJM West. Expansion to the west, to the north to include NYISO and ISO New England, and with other public power entities and other regional entities who submitted RTO filings with the Commission would enhance the scope and configuration of PJM and increase the RTO's importance in the region. Further, the existing MOU, while a promising and beneficial approach to resolving regional issues, is insufficient to be considered a sufficiently strong cooperative agreement with neighboring RTOs which would create a "seamless trading area." The MOU initiative cannot be considered the practical equivalent of eliminating the seams between the three ISOs as would occur by forming a larger RTO, since it does not result in anything resembling a single Northeast market.²² Additionally, the MOU process has resulted in missed deadlines and few significant solutions that address the seams issues and market design differences between the three Northeast ISOs. While PJM was involved in the MOU process, PJM needs to participate fully in discussions between the three Northeast ISOs on forming a single Northeast RTO. PJM must be open to changes and improvements suggested by others.

In consideration of the above, we conclude that while PJM's proposed scope and configuration are provisionally consistent with Order No. 2000, it represents only a first step, a platform which must be built upon. The Commission concludes that, while the scope and regional configuration of the proposed Northeastern RTOs either are provisionally consistent with Order No. 2000 or do not meet Order No. 2000's scope characteristic, in order to successfully address seams issues among the three existing Northeast ISOs and establish efficient markets in the Northeast, it is necessary that all four entities combine to form a single RTO. To facilitate this, we are issuing concurrent with this order, a separate order that directs the parties in this proceeding and the parties in the proceedings in Docket Nos. RT01-86-000 (New England), RT01-95-000 (New York) and RT01-98-000 and RT01-10-000 (PJM West), to participate in settlement discussions for 45 days before a mediator and appropriate consultants to assist and provide advice during the mediation.²³ The order directing mediation requires the mediator to file a report within 10 days after that 45-day period, which is to include the parties' agreement to create a single Northeastern RTO, milestones for completion of intermediate steps and a deadline for submitting the joint proposal. We intend to review the report and issue a subsequent order.

²²We do acknowledge and encourage ISO New England's proposal to adopt the PJM market model.

²³See order issued concurrently in Docket No. RT01-99-000.

We encourage the state commissions to participate in these efforts. Similarly, we encourage Canadian entities that are part of the Northeast Power Coordinating Council to participate in the discussions to the extent consistent with their status as subjects of a foreign, sovereign nation.

RTO Characteristic No. 3: Operational Authority

The RTO must have operational authority for all transmission under its control.

1. PJM's Proposal

PJM notes that, as an ISO operating all transmission systems within its contiguous control area, PJM already meets this requirement by performing the following functions per Order No. 2000: PJM states that it has operational authority for all transmission facilities under its control and is the security coordinator for its region; performs load-flow stability studies to anticipate, identify and address security problems; exchanges security information with local and regional entities; monitors real-time operating characteristics such as the availability of reserves, actual power flows, interchanges schedules, system frequency and generation adequacy; and directs actions to maintain reliability, including firm load shedding. PJM also states that its scope of operational authority includes the directing of switching of transmission elements into and out of operation in the transmission system, monitoring and controlling real and reactive power flows, monitoring and controlling voltage levels, and scheduling and operating reactive resources.

In addition, PJM states that it has clear authority to direct all actions that affect facilities under its control. PJM explains that it does this not through physical control of the grid, but through a central control center that provides explicit operating instructions to local control centers operated by PJM members as permitted by Order No. 2000. PJM uses an exchange of data between the centers to direct members in support of PJM functions including transmission and generation scheduling, energy management services, transmission and generation maintenance and coordination and other functions. PJM states that it provides extensive training for both the central and local system operators. Only certain low voltage facilities are not directly monitored by PJM; however, PJM is still responsible for scheduling transmission across the lines and coordinating secure operation of the lines.

2. Intervenor's Comments

American Forest raises concerns about operational control over customer-owned, on-site generators connected to the RTO grid. It suggests that industrial generation that is a by-product of an industrial process should not be treated the same as merchant generation capacity in that the industrial process generator must only be dispatched if the interconnection agreement permits it and must retain control over planned outage schedules.

3. Discussion

We agree with PJM that, by virtue of its operation of a contiguous control area, PJM already meets this RTO characteristic. With respect to American Forest's concerns, this is not an issue raised by PJM's RTO proposal since PJM proposes no changes to its procedures on this characteristic. We believe this issue would be better addressed in a separate proceeding.²⁴

RTO Characteristic No. 4: Short-Term Reliability

The RTO must have exclusive authority for maintaining the short-term reliability of the grid that it operates.

1. PJM's Proposal

PJM states that its existing operations meets the criteria for short-term reliability. PJM has exclusive authority for maintaining the short-term reliability of the grid that it operates. PJM operates a single control area and it conducts all interchange scheduling for its region. PJM has the right to order the redispatch of any generator connected to the transmission facilities it operates if necessary for the reliable operation of the transmission system. PJM also has the authority to adjust the output of pool scheduled resource

²⁴Likewise, intervenors have raised numerous other issues that would be better addressed in separate proceedings. These issues include: Easton's request for clarification whether the costs of its transmission facilities may be included under the PJM OATT; Shell's request to eliminate, and MAPSA's request to have the PJM market monitor study the reasonableness of, the installed capacity requirement and related deficiency charge; Dynegy's request for clarification of sections 22.2 and 23.1 of the pro forma tariff; EPSA's, Dynegy's and Reliant's requests regarding expansion of the trading of fixed transmission rights (FTRs); Reliant's request to revise the definition of market power; WASA's request that the Commission encourage coordination with state retail unbundling initiatives in PJM markets; WASA's request for classification of transmission facilities; Calpine's request for termination of capacity benefit margin (CBM) procedures; American Wind's request for streamlined procedures for interconnection requests for facilities under 10 MW; and American Wind's request to allow unscheduled deliveries by intermittent generators on PJM's transmission system. These issues do not relate to whether PJM's RTO proposal complies with Order No. 2000 and, therefore, these issues are better addressed in other proceedings.

increments as necessary to maintain reliability, to balance load and generation, and to minimize unscheduled interchange not frequency related.

2. Discussion

PJM has clear authority over dispatch of generation within its control area and, therefore, its existing operations meet this RTO characteristic.

IV. RTO Functions

RTO Function No. 1: Tariff Administration and Design

The RTO must administer its own transmission tariff and employ a transmission pricing system that will promote efficient use and expansion of transmission and generation facilities.

1. PJM's Proposal

PJM notes that its existing Operating Agreement and Transmission Owners' Agreement (TOA) specify that PJM will administer the Tariff. PJM asserts that this responsibility includes the sole authority for the evaluation and approval of all requests for transmission service including requests for new interconnection. Part IV of PJM's Tariff describes the expansion and upgrade process for generation interconnections including the rules for making an interconnection request, the various studies required to determine necessary interconnection facilities, and cost responsibility for facilities and upgrades. The Tariff describes how PJM manages this process with the support of the transmission owners in performing the necessary feasibility and system impact studies. Interconnecting generators or TOs may offer alternatives to PJM's determinations. If PJM does not adopt the alternative, the interconnecting generator or TO may submit the alternative to ADR under Article 12 of the Tariff. Lastly, PJM asserts that its Tariff implements non-pancaked, "license plate" rates for firm transmission service and, as a result, transmission customers do not pay multiple access charges.

2. Intervenors' Comments

Numerous intervenors repeat many of the same concerns about PJM's policies and procedures on generator interconnection that they voiced in earlier PJM ISO filings. As in the past, many continue to express concerns that TOs have too much influence in the process, and some, such as Shell, believe that entry of competitive generation is discouraged as a consequence. Reliant, EPSA, Southern Energy and others continue to complain that TOs have too much influence in setting priorities, determining the needed facilities, and assigning cost. Many, such as Southern Energy, recommend, as they have previously, that PJM itself, outside

consultants or an independent entity should control the process even though TOs may need to be involved. Southern Energy notes that the NYISO's process allows the developer to choose who conducts the System Reliability Impact Study.

3. PJM's Response

In its answer, PJM contends that the only relevant question is whether PJM has the authority to review and approve requests for new interconnections. PJM states that it clearly has authority to review and approve requests for new interconnections under Commission-approved tariff provisions. Additionally, PJM explains that, with 18 months of experience implementing the interconnection procedures, it is important for PJM and market participants to consider the lessons learned in the initial implementation of the procedures and to evaluate opportunities for continued improvement. PJM asserts that this process is best handled by the PJM stakeholders, not in a broad proceeding concerning PJM's status as an RTO.

4. Discussion

Concern that TOs have too much influence in the generator interconnection process, and that the TOs have the ability and the incentive to bias the process to favor their competitive interests, especially since the TOs own significant amounts of generation in the region, remains virtually universal among intervenors. Order No. 2000 emphasizes that decision-making authority should rest with the RTO.²⁵ Final decision-making authority is not, however, enough to ensure that the process supports the competitive goals specified in Order No. 2000.

We note that the proposed Tariff would give the TOs the responsibility to study the need for Attachment Facilities and Local Upgrades while PJM would be responsible for determining Network Upgrades. The TOs affected by a proposed interconnection would be responsible for all estimates of costs and construction times required by Feasibility Studies, System Impact Studies, and Facilities Studies, and for all determinations regarding distribution facilities. We are concerned that the apparent widespread perception that the process is not fair may be a deterrent to future expansion.

We conclude that efficient decision-making on investments in transmission facilities requires that the entire interconnection process must be under the decisional control of the RTO. PJM must be responsible for all aspects of the interconnection process. Customers should deal with and sign interconnection and study agreements with PJM alone. To the extent that PJM requires the expertise and services of the TOs or others in providing

²⁵Order No. 2000, at 31,108.

interconnection service, PJM may enter into appropriate contracts with such entities. Additionally, the Commission intends in the near future to evaluate the importance of standardized interconnection procedures.

RTO Function No. 2: Congestion Management

The RTO must ensure the development and operation of market mechanisms to manage transmission congestion. The RTO must satisfy the market mechanism requirement no later than one year after it commences initial operation. However, it must have in place at the time of initial operation an effective protocol for managing congestion.

1. PJM's Proposal

PJM proposes to satisfy this function by continuing with its locational marginal prices (LMPs)²⁶ and fixed transmission rights (FTRs) (i.e., financial rights)²⁷ approach to pricing transmission. PJM states that it already employs LMP combined with FTRs to manage congestion. PJM notes that, consistent with Order No. 2000, PJM operates the market for congestion management itself, independent of any control of, or affiliation with, any market participant.

2. Intervenors' Comments

The Pennsylvania Commission argues that PJM's congestion management provisions provide no economic incentive for transmission owners to relieve congestion except as obligated pursuant to industry reliability security standards. MAPSA contends that PJM fails to ensure the development and operation of market mechanisms to manage and eliminate transmission congestion, because the LMP method prices congestion but fails to manage congestion in a manner that promotes the elimination of congestion through the establishment of incentives to invest in new and expanded facilities. MAPSA also contends that congestion management should not be a long-term function of an RTO but should be a vehicle to induce investment in new and expanded facilities.

American Wind asserts that wind generation, by definition, is limited to where it can locate and, therefore, is unaffected by price signals with respect to siting. American Wind

²⁶LMPs are competitive energy prices determined at specific locations. The difference between two LMPs is the implicit congestion cost of moving power between them. PJM computes prices at each node, hence its LMPs are called nodal prices.

²⁷An FTR is a contractual right to congestion charge revenues. FTRs are assigned to firm transmission service customers (network and point-to-point) under the PJM OATT.

requests that PJM's planning include consideration of congestion management tools that will result in encouraging wind development. Additionally, American Wind states that congestion should be eliminated wherever possible through upgrades with the costs fairly allocated among market participants. Further, American Wind argues that the Commission should instruct PJM and other RTOs to investigate whether capacity that is not available on a firm basis due to outage contingencies can be made available to wind and other intermittent technologies on a long-term, but non-firm basis.

Calpine acknowledges that the Commission prefers the LMP model for congestion management, but argues that there are alternative methods and other more permanent techniques which need to be fully deployed.

3. PJM's Response

In its answer, PJM contends that there is no basis for replacing PJM's LMP mechanism, which is functioning well and which the Commission cited as the model for congestion management in Order No. 2000, with new and completely untested mechanisms. Moreover, PJM argues that it has analyzed the likely effects of a flowgate model in PJM using two years of historical data and the costs of resolving congestion, instead of being borne by the parties causing the congestion, would be socialized through uplift charges.

4. Discussion

PJM's congestion management proposal satisfies Order No. 2000's requirements. In Order No. 2000, the Commission cited PJM and stated that markets based on LMP and financial rights for firm service appear to provide a sound framework for efficient congestion management.²⁸ As to Calpine's suggestion that the Commission should permit alternatives to LMP, we reiterate that, while LMP is an acceptable approach, the Commission does not prescribe any particular congestion management method. Order No. 2000 grants RTOs considerable flexibility to propose a congestion pricing method that is best suited to each RTO's individual circumstances. We will accept PJM's proposal here to continue LMP. We note, however, varying congestion management systems within a natural regional energy market such as the greater Northeast can operate as a barrier to entry to new market participants. This is why it is critical for the market participants in the greater Northeast to reach agreement on market rules.

Regarding the Pennsylvania Commission's concern that LMP does not provide an economic incentive to transmission owners for transmission expansion, we are requiring changes to PJM's planning and expansion proposal, described in a later section, that will

²⁸Order No. 2000, at 31,126-27.

address this concern. Currently, parties using congested transmission paths pay congestion charges. Transmission customers using heavily congested paths who lack FTRs have an incentive to propose and offer to finance transmission expansions, in order to acquire FTRs and avoid future congestion charges. However, parties holding existing FTRs, including transmission owners who are LSEs, may not have a strong incentive to expand transmission capacity, because expansions could reduce the congestion revenues received by FTR holders. As explained more fully later, transmission owners currently have too large a role in planning and expansion decisions and we will eliminate this preferential role. We also will require that PJM have the ultimate responsibility for developing plans and conducting the studies that are currently the responsibility of the transmission owners. In addition, we will allow third parties to construct and own new transmission facilities.

In response to MAPSA's concern regarding the long-term management of congestion, the Commission did not state, in Order No. 2000, that managing congestion would be a short-term function. The Commission agreed with intervenors that managing congestion using market mechanisms is superior to the use of administrative curtailment procedures or other approaches because it takes into account the relative value of the transactions that are curtailed and those allowed to go forward.

With respect to American Wind's concerns relating to the physical placement of its wind generators and its ability to obtain transmission service, Order No. 2000 does not require PJM to ensure that its congestion management plan includes strategies that will encourage development of renewable resources. Further, Order No. 2000 does not require PJM to modify its OATT to provide non-firm service of capacity associated with outage contingencies. However, PJM's pro forma Tariff provides flexibility for various types of non-firm service arrangements (e.g., hourly or monthly), which may accommodate intermittent wind generation. While the Commission recognizes that the intermittent service American Wind seeks may be feasible, we are not making a finding whether long-term non-firm service needed by American Wind is possible on PJM's transmission system.

RTO Function No. 3: Parallel Path Flow

The RTO must develop and implement procedures to address parallel path flow issues within its region and with other regions. The RTO must satisfy this requirement with respect to coordination with other regions no later than three years after it commences initial operation.

1. PJM's Proposal

PJM states that because it operates a large, single control area with free flowing ties between the individual transmission owners' systems throughout the control area, it internalizes parallel flows from all transactions between companies in the PJM region. PJM asserts that it is in the process of addressing parallel path flow issues with other regions,

prior to the Commission's three year deadline. For example, PJM is part of the Lake Erie Security Process Working Group that addresses the circulating flows around Lake Erie.²⁹ Further, PJM points out that in 1985 PJM and the New York Power Pool (its successor, NYISO) entered into a Commission-approved agreement to manage parallel path flows that one party may experience because of the external purchases of the other party.³⁰

2. Intervenors' Comments

MAPSA argues that PJM relies on prior developments to demonstrate PJM's compliance with Order No. 2000. MAPSA states that the existing MOU provides only bleak prospects for tangible results towards meeting this requirement. MAPSA further states that the Commission should require PJM to submit a detailed plan produced by the MOU process that provides evidence necessary to demonstrate that PJM meets this requirement of Order No. 2000.

3. Discussion

PJM states it is actively working to improve coordinated operations with other control areas both independently and on a group basis. We conclude that PJM's membership in regional coordinating groups such as the Lake Erie Security Process Working Group and its existing interconnection agreement with the NYISO, and its proposal to form PJM West are first steps towards addressing parallel path flows issues with other regions. Additionally, PJM has existing unscheduled parallel flow interconnection agreements. Order No. 2000 requires that the RTO develop and implement procedures to address parallel path flows within its region and with other regions no later than three years after it commences initial operation.³¹ We find that PJM meets the minimum requirements of this function. However, since PJM has not addressed how parallel flows will be internalized within the Northeast region and other regions to the west and south, we will further review PJM's compliance with

²⁹In *North American Electric Reliability Council*, 87 FERC ¶ 61,160 (1999), the Commission generally accepted the Lake Erie Emergency Redispatch (LEER) procedures and found that the LEER procedures are an additional measure that went beyond the requirements of *North American Electric Reliability Council*, *et al.*, 85 FERC ¶ 61,353 (1998). In *Northeast Power Coordinating Council*, 92 FERC ¶ 61,209 (2000), the Commission approved the Northeast Power Coordinating Council's revisions to its existing LEER procedures for the Summer 2000 period. The objective of the LEER procedures are to facilitate emergency redispatch among participating control areas surrounding Lake Erie to avoid the curtailment of transmission service.

³⁰*Pennsylvania-New Jersey-Maryland Interconnection*, 33 FERC ¶ 61,084 (1985).

³¹Order No. 2000, at 31,130.

Order No. 2000's requirements when PJM submits additional procedures for addressing these parallel flows. We expect parallel path flows issues in the Northeast region to be addressed in the settlement discussions before the mediator relating to the formation of a single RTO in the Northeast, and to be addressed in the mediator's report.

RTO Function No. 4: Ancillary Services

The RTO must serve as a provider of last resort of all ancillary services required by Order No. 888 and subsequent orders.

1. PJM's Proposal

PJM states that it currently has in place all elements of this requirement. PJM also states that its existing Tariff: requires PJM to be the provider of last resort for all required ancillary services; allows transmission customers to acquire ancillary services from a third party, or by self-supply; gives PJM the authority to decide the minimum required amounts of ancillary services and the locations at which services must be provided; and establishes a real-time balancing market, an interchange energy market, and provides energy imbalance and operating reserves at market-based rates.³²

2. Intervenor's Comments

MAPSA argues that PJM has not facilitated expansion of competition for ancillary services, despite the fact PJM has unbundled the pricing for ancillary services. MAPSA also argues that PJM should not be involved in generation-related markets. MAPSA believes that PJM should not offer ancillary service because it is generation-related - not transmission-related. In addition, MAPSA contends that since PJM has failed to promote the development of ancillary service markets, the Commission should require PJM to correct this market deficiency.

3. Discussion

We find that PJM has all the elements to satisfy the requirements outlined in Order No. 2000 for ancillary services. PJM's OATT provides the option for customers to self-supply or acquire ancillary services from third parties as Order No. 2000 requires. In Order No. 2000, the Commission determined that the RTO must have the authority to decide the minimum amounts of each ancillary service and, if necessary, the locations at which these

³²See, e.g., Schedules 1 through 6 and Attachment K of PJM's OATT.

services must be provided.³³ PJM has the authority to decide the minimum required amounts of ancillary services and the locations at which the services must be provided. With respect to MAPSA's argument that PJM should not be involved in the generation market, ancillary services are a part of transmission service and we conclude that PJM offers these services in a manner consistent with Order No. 2000. In response to MAPSA's concerns regarding competitive markets for ancillary services, the Commission clarified in Atlantic City Electric Company, 86 FERC ¶ 61,248 (1999), that sellers (whether inside or outside the PJM control area) who have authorization to sell energy and ancillary services at market-based rates can submit offers to sell into PJM's energy market and ancillary services market. Therefore, we find that PJM's ancillary service provisions complies with Order No. 2000's requirements.

RTO Function No. 5: OASIS, Total Transmission Capability (TTC) and Available Transmission Capability (ATC)

The RTO must be the single OASIS site administrator for all transmission facilities under its control and independently calculate TTC and ATC.

1. PJM's Proposal

PJM states that it is the single OASIS site administrator for all transmission facilities under its control. PJM notes that, to further the efficiency and ease of use of the OASIS site, PJM began in 1999 to work on a proposed new Internet portal—the Market User Interface—that will integrate the PJM markets and OASIS into a single, easy-to-use system. PJM also states that PJM independently calculates ATC values based on data partially or totally developed by PJM. Further, PJM contends that, because of PJM's responsibilities as an ISO, PJM possesses the data necessary to verify the information provided by the PJM transmission owners to calculate ATC and TTC. PJM notes that it follows the principles outlined by the North American Electric Reliability Council's (NERC) Transmission Transfer Capability Task Force.

2. Intervenors' Comments

Calpine states that there is wide latitude to update ATC postings within OASIS, whereby the providers of transmission in a vertically integrated utility can restrict competition in certain transactions. According to Calpine, examples have occurred where denials of firm service on a day-ahead or longer term basis (to support bilateral transactions) occur because of insufficient ATC. Calpine argues that this lack of transparency exacerbates market concentration.

³³Order No. 2000, at 31,141.

MAPSA argues that ATC and TTC data that PJM will utilize to process and verify information will not ensure coordinated and unbiased data that is required under Order No. 2000. MAPSA contends that the data may be available to PJM but there is no explanation of how PJM will use the data to confirm the information obtained from the TOs to calculate ATC and TTC. MAPSA also argues that the Commission should require PJM to develop a system to verify the data collected under the OATT and the Operating Agreement and provided by TOs that is used to calculate ATC and TTC.

3. Discussion

Order No. 2000 concluded that an RTO must be the single OASIS site administrator for all transmission facilities under its control, and must calculate ATC values based on data developed partially or totally by the RTO.³⁴ PJM's compliance filing, which is reflective of its current operations, satisfies this RTO function. PJM is the single OASIS site administrator for all transmission facilities under its control and independently calculates ATC and TTC based on data partially or totally developed by PJM. Also relevant, PJM maintains both generator and transmission outage schedules and thus can verify when generating units or transmission facilities will be out of service.³⁵ Additionally, as PJM explained in its filing, it has real-time telemetry data and therefore is able to verify the actual operation of the system. While Calpine claims that transmission providers restrict certain transactions, it has not cited a specific example pertaining to PJM, and we will not consider Calpine's claim in the abstract. Regarding MAPSA's argument, it is not clear how PJM resolves disputes between information it gathers and information supplied by the TOs. We direct PJM to clarify its procedures in its compliance filing.

RTO Function No. 6: Market Monitoring

To ensure that the RTO provides reliable, efficient and not unduly discriminatory transmission service, the RTO must provide for objective monitoring of markets it operates or administers to identify market design flaws, market power abuses and opportunities for efficiency improvements, and propose appropriate actions.

1. PJM's Proposal

PJM states that its market monitoring plan provides for a market monitoring unit (MMU) to independently and objectively monitor and report on the operation of the PJM market. PJM notes that the PJM market is defined as the PJM Interchange Energy Market together with all bilateral or other electric power and energy transactions, ancillary services

³⁴Order No. 2000, at 31,144-45.

³⁵See PJM's Operating Agreement, Schedule 1 § 1.9.1.

transactions and transmission transactions within the PJM control area. PJM also notes that, pursuant to the market monitoring plan, the MMU has the authority to recommend modifications to the various PJM agreements, PJM manuals, or other rules, standards, or practices that it believes are necessary as a result of its monitoring activities. Additionally, PJM asserts that the MMU is authorized to pursue corrective actions, including issuing demand letters.

PJM also explains that the market monitoring plan provides that the MMU shall submit periodic reports concerning the state of competition within, and efficiency of, the PJM Market to the PJM Board, the Commission, and to other authorized governmental agencies, as appropriate. Finally, PJM states that consistent with Order No. 2000, the MMU's primary source of information for conducting its monitoring activities is the data and information that is customarily gathered in the normal course of business of PJM, along with other publicly available information available to the market monitoring unit.

2. Intervenors' Comments

WASA urges the Commission to direct parties to examine PJM's structure and procedures to ensure that they encourage the use of forward markets and bilateral contracts and discourage undue reliance on the real time energy markets, except for balancing purposes.

Several intervenors raise concerns regarding the role of a MMU under an RTO. EPSA asserts that the Commission should establish a regional, independent cross-RTO monitoring organization that simply gathers data with no enforcement powers. The New York Commission argues that once the markets have matured and become workably competitive, it may be appropriate to limit the MMU function to oversight of the RTOs and the markets, with allegations of market power abuse considered under the anti-trust laws by other authorities.

Southern Energy and DEMEC raise concerns regarding who should perform market monitoring. Southern Energy argues that the market monitoring function should be performed by an outside market power advisor truly independent from the RTO that it monitors. Likewise, DEMEC suggests that the effectiveness of the MMU would be improved by making it independent, not only of the PJM members, but of PJM itself.

Some intervenors argue that PJM has failed to appropriately monitor market activities within its region. Shell is concerned that, although the PJM MMU is doing a good job regarding market monitoring, it appears to have forgotten its affirmative obligation to detect and propose appropriate actions regarding market design and efficiency improvements. DEMEC contends that, to date, PJM has made only one market monitoring report, which fails to provide any explanation for high prices and price spikes, and the apparent reduction of competition, in the PJM system area.

3. PJM's Response

PJM responds that, while some parties suggest that the MMU should be independent of PJM, they present no evidence that the current staffing of the MMU with PJM employees is creating any problems or affecting market monitoring. PJM asserts that the MMU has been effective and independent, and has provided reports on the energy, capacity, FTR, and ancillary services markets. In addition, PJM contends that the MMU has identified market defects and abusive conduct, leading to Commission approved changes to PJM's market rules.

4. Discussion

Order No. 2000 requires market monitoring plans to be designed to ensure that there is objective information about the markets that the RTO operates or administers and a vehicle to propose appropriate action regarding any improvements needed, market design flaws, or market power.³⁶ PJM's MMU investigates and monitors activities of market participants, including PJM members. The MMU's responsibilities include monitoring issues related to transmission congestion pricing, exercise of market power, design flaws in the operating rules, and structural problems in the PJM market. PJM has submitted reports on the energy, capacity, FTR and ancillary service markets. As to intervenors complaint that PJM's MMU has failed to investigate market activities within its region, we note that the MMU has identified market flaws leading to remedies approved by the Commission.³⁷ We conclude that PJM's MMU satisfies Order No. 2000 criteria, with the one modification discussed below.

Order No. 2000 states that penalties and sanctions may be appropriate for certain actions and any proposed sanctions or penalties must be clearly identified in the market monitoring plan, as well as the specific conduct to which they would be applied, the rationale to support the sanctions and an explanation as to how they would be applied.³⁸ Order No. 2000 did not require, however, that the market monitor have the authority to impose penalties and sanctions.³⁹ Thus, while intervenors argue that PJM's MMU must have mitigation authority, *i.e.*, the ability to impose sanctions, this is not a required element of a market monitoring plan. Rather, consistent with Order No. 2000, PJM's proposal authorizes the market monitor to recommend changes to PJM's OATT and the Operating Agreement and

³⁶Order No. 2000, at 31,156.

³⁷ See PJM Interconnection L.L.C., 92 FERC ¶ 61,013 (2000).

³⁸Order No. 2000, at 31,156.

³⁹See also GridSouth, 94 FERC at 62,006.

issue demand letters requesting that a market participant discontinue activities the MMU believes violates the PJM market rules, Tariff and other PJM agreements.

Certain intervenors contend that PJM should have an outside market power advisor that is independent from the RTO. Order No. 2000 permits, but does not require, the market monitor to be outside of the RTO. The Commission has the statutory responsibility to ensure that public utilities selling in competitive bulk power markets do not engage in market power abuse and also to ensure that markets within the Commission's jurisdiction are free of design flaws and market power abuse. To that end, the Commission will expect to receive the reports and analyses of an RTO's market monitor at the same time they are submitted to the RTO.⁴⁰ The Commission intends to work with the market monitor to ensure that markets are functional and free of abuse or design flaws. Additionally, the Commission stated in Order No. 2000 that it would periodically assess the need for, and the degree of market monitoring that should be done. In this proceeding, we accept PJM's market monitoring plan with the change required above and the understanding that the Commission will periodically assess the need for, and degree of market monitoring; and hereby reserve our authority to issue a supplemental order regarding market monitoring.

RTO Function No. 7: Planning and Expansion

The RTO must be responsible for planning and for directing or arranging necessary transmission expansions, additions and upgrades that will enable it to provide efficient, reliable and non-discriminatory transmission service and coordinate such efforts with the appropriate state authorities. If the RTO is unable to satisfy this requirement when it commences operations, it must file with the Commission a plan with specified milestones that will ensure that it meets this requirement no later than three years after initial operation.

1. PJM's Proposal

PJM proposes to satisfy the planning and expansion function by maintaining its responsibilities under Schedule 6 of its Operating Agreement that describes its Regional Transmission Expansion Planning Protocol (RTEPP). Schedule 6 explains how the ISO currently identifies transmission expansion projects that conform with NERC's and MAAC's reliability criteria with the PJM Board having final approval of the plan. Two committees assist PJM in the development of the regional plan, an Advisory Committee and a Planning Committee. PJM consults with the Advisory Committee on issues such as the proper scope, assumptions, and procedures for various expansion studies. The TOs supply representatives to the Planning Committee and any needed data and analyses, although the PJM Board makes the final decisions on what projects to include in the plan. Schedule 6 also identifies the

⁴⁰California Independent System Operator Corporation, 86 FERC ¶ 61,059 (1999).

TO(s) responsible for constructing specific facilities and how cost responsibility is to be shared among them. The TOs who disagree with any aspect of the plan or cost recovery may require that disputes and alternatives be submitted to Alternative Dispute Resolution (ADR).

PJM contends that its proposal satisfies the Commission's three RTO requirements for planning and expansion. First, PJM contends that it satisfies market-motivated operating and investment actions for managing congestion because generators' decisions of where to locate reflect market-determined congestion information in LMPs. Interconnection procedures also assign incremental FTRs to generators that pay to upgrade the system. Second, PJM states that it is willing to accommodate efforts by state regulatory commissions to create multi-state agreements, but thus far, the commissions in PJM's control area have no such plans. In the meantime, PJM has entered into a Memorandum of Understanding with the states and the District of Columbia to establish a mutually agreed upon protocol and organizational structure for cooperation. Third, PJM states that its RTEPP and interconnection procedures are in place and functioning well.

2. Intervenors' Comments

Several intervenors contend that transmission planning and expansions in PJM have been inadequate to support developing competition. For example, the Pennsylvania Commission and the MAPSA complain that, although LMP may price congestion efficiently, it has not produced the needed expansions and upgrades. Others, such as Joint Consumer Advocates, note that no single document constitutes the Regional Transmission Expansion Plan (RTEP) making it difficult for anyone to identify specific projects included in the plan. TransEnergy objects that third parties are excluded from building and owning transmission facilities identified in the plan.

3. Discussion

With the modifications discussed below, we find that PJM's transmission planning and expansion provisions will meet the Commission's requirements outlined in Order No. 2000. We emphasize that RTO regional transmission expansion plans must be more than a collection of traditional expansion plans developed by individual TOs and assembled by the RTO after confirming that they serve reliability needs. Three aspects of Schedule 6 of PJM's Operating Agreement do not fully satisfy our RTO objectives and must be modified as described below.

First, Schedule 6 emphasizes that the plan "is assessed on the basis of maintaining the PJM Control Area's reliability in an economic and environmentally acceptable manner." Although this is an important objective, the focus of an RTO regional plan that supports the development of a competitive bulk power market must be broader. As we noted in

GridFlorida II,⁴¹ planning protocols must fully explain how the RTO "will pursue infrastructure investment that will make generation markets more competitive." This means that the planning process should also focus on identifying projects that expand trading opportunities, better integrate the grid, and alleviate congestion that may enhance generator market power. The PJM ISO planning process appears to be driven more by the particular needs of TOs in serving their traditional retail customers than in fostering competitive markets. Consequently, we will require PJM to modify Schedule 6 to specify an RTO planning process that gives full consideration to all market perspectives and identifies expansions that are critically needed to support competition as well as reliability needs.

Second, Schedule 6 details a significant role for TOs in the planning process as members of the Planning Committee, which appears to conduct all the required analyses. However, Schedule 6 provides little opportunity for comparable involvement of other parties. If invited, others may participate in the Advisory Committee, which provides "input to the development of the Regional Transmission Expansion Plan." Although the Board has final approval of the plan, it appears that the Board has an opportunity to review only those projects that survive a study process significantly influenced by TOs. The RTO planning process must include meaningful participation by third parties, and provide all interested parties an opportunity to participate, however PJM must ultimately be responsible for developing the plan and conducting the studies and analyses that are currently the responsibility of the TOs. Also, as we emphasized in GridFlorida II,⁴² the process must be transparent with respect to the RTO's final plans, so that all market participants will have confidence that the process is fair and efficient. Regional transmission expansion plans must be more than the compilation of traditional, reliability-focused TO expansion plans. Details of the plan's projects must be readily accessible to all market participants.

Finally, we agree with TransEnergie that the RTEPP appears to limit construction and ownership of new transmission facilities identified by the plan to TOs only, although merchant projects are not precluded. We find that the principle of third-party participation is an important one even though we recognize practical obstacles may prevent third parties from competing effectively with incumbent TOs, at least in the short-run. For example, obtaining rights-of-way under eminent domain authority may not be possible for some third parties. Nevertheless, we find that our long term competitive goals are better served by RTO expansion plans that allow for third party participation as well as permit merchant projects outside the plan. PJM must revise Schedule 6 to include in its process that third parties may participate in constructing and owning new transmission facilities identified by the plan. Third party construction and ownership of new facilities is needed because of PJM's proposed RTO structure allows the TOs, as market participants, to have rights not available to

⁴¹GridFlorida LLC, 94 FERC ¶ 61,363 at 62,367 (2001) (GridFlorida II).

⁴²94 FERC, at 62,367.

other parties. We expect these planning and expansion issues in PJM and similarly in the Northeast region to be addressed in the settlement discussions before the mediator relating to the formation of a single RTO in the Northeast, and to be addressed in the mediator's report.

RTO Function No. 8: Interregional Coordination

The RTO must ensure the integration of reliability practices within an interconnection and market interface practices among regions.

1. PJM's Proposal

PJM notes that the formation of PJM West with a single marketplace overlaying multiple control areas, will represent a significant solution of PJM's seams issues to the west. PJM asserts that there are some impediments to interregional coordination that arise from the status of the Commission's actions regarding other ISOs and RTOs. For example, PJM contends that the Commission has not imposed upon ISO New England the same non-stakeholder board independence requirements that exist for PJM.

Additionally, PJM notes that, to facilitate the extension of PJM's market rules across seams, PJM recently created a new subsidiary, PJM Technologies, to provide its market rules and related software to other RTOs. PJM explains that PJM is actively participating in resolving interregional coordination issues with other ISOs under the MOU with the other Northeast ISOs. PJM notes that, among other things, the MOU established five working groups⁴³ to address interregional coordination issues and developed an Internet site, www.isomou.com.

PJM points out that the Planning Working Group is addressing the complex issues of how to (1) impose obligations on generation projects connecting to a neighboring system and

⁴³ The five working groups are: Operations, Planning, Business Practices, Communications, and Information Technology.

(2) manage milestone requirements and the rights of project developers in multiple ISO interconnection queues. PJM states that the Planning Working Group is holding stakeholder sessions on capacity adequacy planning; and developing procedures to expand transmission system capability for both reliability and economic purposes.

2. Intervenors' Comments

Several intervenors contend that, if the significant seams issues are to be solved, PJM must merge with NYISO and ISO New England. Intervenors also argue that the current MOU process has not produced sufficient results to rely on this effort as the sole means of addressing seams issues. Industrial Consumers argue that the Commission must insist that PJM do more to reach out to Alliance and GridSouth and should impose corresponding obligations on GridSouth and Alliance. Similarly, Buckeye argues that if Allegheny Power joins PJM there will be a transmission "seam" in eastern Ohio between the Alliance Regional Transmission Organization and PJM and a second seam in western Alliance RTO and the Midwest ISO. Moreover, Buckeye also argues that transmission rate pancaking is certain under PJM's RTO filing. Industrial Consumers' request that the Commission convene a technical conference to develop a template for interregional coordination compliance.

3. Discussion

In Order No. 2000-A, the Commission noted that we expect parties to utilize the collaborative process to discuss interregional coordination issues.⁴⁴ With regard to issues raised concerning the combining of PJM together with NYISO and ISO New England, and seams issues in the Northeast region, these issues have been addressed in the Scope and Regional Configuration section of this order.

Order No. 2000 requires an RTO to develop mechanisms to coordinate its activities with other regions regardless of whether or not an RTO exists in these other regions.⁴⁵ In addition, Order No. 2000 states that if it is not possible to coordinate mechanisms at the time an RTO proposal is filed, the RTO must propose reporting requirements, including a schedule and provide follow-up details as to how it is meeting the coordination requirements of this function.⁴⁶

⁴⁴Order No. 2000-A, at 31,382.

⁴⁵Order No. 2000, at 31,167.

⁴⁶Id.

As we explained in GridSouth,⁴⁷ the interregional coordination function of Order No. 2000 has two aspects: the integration of reliability practices and the integration of market interface practices. PJM's proposal to form PJM West is a step towards ensuring the integration of reliability practices to the west. However, PJM has not yet developed a schedule with other transmission systems contiguous to PJM's facilities such as Alliance to address seams issues. To ensure the integration of reliability and market interface practices to the south and west, it is necessary that PJM coordinate transmission practices with these entities. In GridFlorida II,⁴⁸ the Commission recognized the inherent difficulties in developing an interregional coordination arrangement involving various industry participants. There, the Commission determined that GridFlorida must provide an updated status report of its ongoing discussions (including a schedule of future meetings) and a schedule of future reports describing the progress of coordination efforts and discussions. Therefore, we direct PJM to work with Alliance and GridSouth to resolve seams issues to the west and south and require PJM to file reports with milestones for resolving these seams issues within 60 days of the date of this order. These reports should include updated status report of its ongoing discussions (including a schedule of future meetings) and a schedule of future reports describing the progress of coordination efforts and discussions.

V. Other Requirements of Order No. 2000

Open Architecture

Any proposal to participate in an RTO must not contain any provision that would limit the capability of the RTO to evolve in ways that would improve its efficiency, consistent with the required characteristics and required functions for an RTO.

1. PJM's Proposal

PJM states that its existing Tariff agreements and other governing documents do not limit the capability of the RTO to evolve in an efficient manner. PJM also states that it will work with its members to ensure that PJM continues to be a leading RTO.

2. Intervenors' Comments

Southern Energy notes that, given PJM's open architecture, integrating marketing participants from the NYISO and ISO New England into a single Northeast RTO will not present significant hurdles. In addition, HQUS asserts that the Commission should ensure

⁴⁷94 FERC, at 62,011.

⁴⁸94 FERC, at 62,368.

that the structure and architecture of the PJM RTO encourages interregional coordination and the expansion of RTOs to sufficient scope, including mergers of RTOs (e.g., PJM West).

3. Discussion

We conclude that PJM's tariffs, agreements and other governing contracts provide a sound framework that will enable PJM to expand geographically and merge with other markets in the Northeast region and to the West. For example, PJM has stated that it intends to merge with Allegheny Power to form PJM West. Our review of these documents has not identified any provisions that would discourage future growth. Therefore, we find that PJM's open architecture does not limit its capability to work with various market participants and stakeholders to ensure that PJM will continue to evolve with the changes in the electric industry as Order No. 2000 requires

VI. Transmission Enhancement Plan and Innovative Rate Proposal

1. Transmission Owners' Proposal

In response to Order No. 2000's invitation to propose performance based rate regulation (PBR) and innovative pricing, the PJM TOs, under section 205 of the FPA, filed a Transmission Enhancement Plan (TEP) and innovative rate proposal to strengthen their commitment to expand the grid in exchange for several regulatory considerations. PJM submitted the TEP and innovative rate proposal on behalf of the TOs and states that it generally endorses the package. The filing describes the TEP and innovative rate proposal as offering "to facilitate the construction of economic transmission enhancements that are desired by market participants and are coordinated through the RTEP [Regional Transmission Expansion Plan] process, but are not required by an approved RTEP."

The proposed TEP would require that the TOs begin construction activity on assigned projects within a 90-day period. This commitment results from the TOs' agreement to share cost responsibility for certain projects regardless of where they are located. When combined with the fact that the TOs have already surrendered much of their ability to make independent investment decisions, they request: (1) a moratorium on changes to existing zonal rates through December 31, 2004; (2) deferral of cost recovery for investments made during the moratorium; (3) a 15-year depreciation rate for new transmission investments; and (4) a risk-adjusted rate of return. The TOs emphasize that these four elements are essential to their accepting the terms of the TEP which, in their view, increases their risk in investing in transmission assets.

2. Intervenors' Comments

Intervenors generally do not support the TOs' proposed TEP and innovative rate proposal. They include market participants from all groups, for example, the PJM Industrial Customers, ODEC, Reliant, Shell, and the Maryland Commission. They urge the Commission to reject the TEP since it is voluntary and not essential for RTO status. They disagree that the TEP would result in more transmission capacity sooner. Intervenors object to the proposed rate moratorium because it would delay implementation of a single pool-wide rate for PJM. Furthermore, some believe current rates are outdated and are, therefore, inappropriate price caps for a moratorium period. All intervenors object to the cost deferral mechanism, some because they say it amounts to giving TOs a blank check for expansion costs, and others because they say it is no more than an end run around the TOs' agreement to a retail rate moratorium. Intervenors also argue that the proposed 15-year depreciation rate for new transmission investments would unjustly reward the TOs for constructing facilities they are already obligated to construct. None support giving the TOs a higher rate of return to reflect greater risk posed by the new RTO market-oriented environment, which they regard as unchanged from the ISO market-oriented environment. TransEnergie objects to the TEP arguing that it does not allow for third parties to participate by building and owning transmission facilities.

3. Discussion

Order No. 2000 requires that the RTO have independent and exclusive authority to make section 205 filings under the FPA that apply to rates, terms and conditions of transmission service provided over the facilities the RTO operates.⁴⁹ Order No. 2000 balances the need to ensure independence in the administration of the regional transmission tariff by the RTO and the need to provide transmission owners the opportunity to recover revenues as owners of the assets. Order No. 2000 explains:⁵⁰

The transmission owners may make Section 205 filings to establish the payments that the RTO will make to the transmission owners for the use of the transmission facilities that are under the control of the RTO; the RTO, in turn, will make Section 205 filings to recover from transmission customers the cost of the payments it makes to transmission owners as well as its own costs and propose any other changes in the rates, terms and conditions of service to transmission customers.

⁴⁹18 C.F.R. § 35.34(j)(1) (2000).

⁵⁰Order No. 2000, at 31,076; reh'g denied, Order No. 2000-A, at 31,369-72. This aspect of Order No. 2000 is on appeal.

In Avista Corporation, et al., 95 FERC ¶ 61,114 at 61,338 (2001) (RTO West), the Commission found that it was appropriate to allow a transmission entity that is independent of market participants to include a request for innovative rate treatments under Order No. 2000 in its section 205 revenue requirement filing because an independent entity would not have an incentive to submit a proposal that would discriminate among particular market participants. The Commission additionally stated that it recognized, however, that certain pricing proposals may be more compatible with one form of independent transmission entity than another, and that it would evaluate each proposal on a case-by-case basis to ensure that it will operate appropriately in the particular RTO circumstances.⁵¹ Further, in RTO West, the Commission suggested that, for actions the RTO controls, transmission owners would not be entitled to rewards or subjected to penalties.⁵²

In RTO West, the Commission ordered the RTO to revise its Transmission Operating Agreement to eliminate the authority of those transmission owners that are not independent of market participants, to unilaterally file with the Commission to establish or change rates under the region-wide RTO tariff.⁵³ The Commission stated that each transmission owner remains free to identify and update its revenue requirement. And, transmission owners may enter into agreements with the RTO regarding their revenue requirement and how it will be recovered through the RTO tariff and file such agreements with the Commission as rate schedules. Furthermore, transmission owners can make such revenue requirement filings unilaterally to the Commission where they cannot reach consensus with the RTO. Ultimately, however, once a particular revenue requirement is approved by the Commission, it is the responsibility of the RTO, as the sole administrator of the transmission tariff for the region, to incorporate the revenue requirements of each of its members (including any innovative pricing proposal by transmission owners who have elected to become independent of market participants) into a single, cohesive transmission tariff it will administer for the region.

The proposed TEP and incentive rate proposal filed as part of PJM's Order No. 2000 compliance filing was submitted by PJM on behalf of the PJM TOs. PJM states that it generally endorses the proposal, however, it does not sponsor it. PJM's TOs, as market participants, continue to maintain rights relating to reliability, interconnection and transmission expansion that are not held by other market participants. These rights are comparable to the rights held by the transmission owners in the hybrid model proposed in

⁵¹Order No. 2000, at 31,192.

⁵²See 95 FERC, at 61,338, footnote 57.

⁵³Id., at 61,339.

ISO New England's Order No. 2000 compliance filing.⁵⁴ The PJM TOs are not independent of market participants and based on our findings in RTO West, we can not accept the proposed TEP and incentive rate proposal. While we are generally supportive of the types of incentives being proffered, we view the proposed TEP and incentive rate proposal as a unilateral filing by the TOs that are also market participants. We have no assurance that the proposed incentives will not favor the generation merchant function of a particular TO. PJM, as the RTO, must be responsible for developing the transmission enhancement plan and developing and proposing innovative pricing proposals.

Further, we will also reject the PJM TOs' proposed revisions to the Transmission Owners Agreement and the new Attachment H (Transmission Rate and Rate Design Moratorium) to PJM's OATT because these proposed revisions contain provisions of the proposed transmission expansion package and innovative rate proposal that we have rejected.

The Commission finds:

While we are granting provisional RTO status to PJM in today's order, we direct PJM to continue its current efforts at expanding Westward and to work with NYISO and ISO New England to develop a regional transmission organization that encompasses the entire Northeast. Much of the guidance which we have provided in today's order derives from the fact that PJM's TOs, as market participants, continue to have the ability to affect RTO decisionmaking (e.g., reliability, planning and expansion). Moreover, the transmission rate incentives are being proposed by the transmission owners who are market participants rather than the RTO.

The Commission orders:

(A) PJM's answer to comments and protests and answer to the motion to reject are hereby granted, as discussed in the body of this order.

(B) WASA's request for a technical conference is hereby denied, as discussed in the body of this order.

⁵⁴ISO New England Inc., et al., Docket No. RT01-86-000, proposed a hybrid RTO in which the existing ISO would be the system operator for the New England control area, administer the wholesale markets in the region and provide ancillary services. A newly-formed investor-owned independent transmission company would administer the RTO's Open Access Transmission Tariff and arrange for construction of new transmission facilities and generator interconnections in the region.

(C) Joint Consumer Advocates' reply comments are hereby granted, as discussed in the body of this order.

(D) The motions for summary disposition, and requests for an evidentiary hearing are hereby denied, as discussed in the body of this order.

(E) Enron's late protest is hereby granted for consideration.

(F) PJM's compliance filing is hereby provisionally accepted as discussed in the body of this order, and PJM is hereby directed to submit within 60 days, revisions to the compliance filing, as discussed in the body of this order.

(G) PJM is hereby directed to file a schedule for future progress reports on interregional coordination discussions and efforts within 60 days, as discussed in the body of this order.

By the Commission. Commissioner Massey concurred with a separate statement attached.

(S E A L) Commissioners Breathitt and Wood dissented in part with a separate statement attached.

David P. Boergers,
Secretary.

APPENDIX
Intervenors

American Forest & Paper Assn. (American Forest)^ #
American Wind Energy Assn. (American Wind)^
BP Energy Company
Calpine Eastern (Calpine)#
Coastal Merchant Energy, L.P.
Constellation Power Source, Inc.
Delaware Municipal Electric Corporation, Inc. (DEMEC)#
Delaware Public Service Commission*
District of Columbia Water and Sewer Authority (WASA)#
Duquesne Light Company (Duquesne)
Dynergy Inc. (Dynergy)#
Duke Energy North America, LLC (Duke)^
Easton Utilities Commission of Easton, Maryland (Easton)^
Edison Mission Energy, Edison Mission Marketing & Trading, Inc., and Midwest
Generation EME, LLC#
Electric Power Research Institute**
Electric Power Supply Assn. (EPSA)^
Enron Power Marketing, Inc. (Enron)# ^
Entergy Power Generation Corp.
H.Q. Energy Services (U.S.), Inc. (HQUS)#
Industrial Consumers**
Maryland Office of People's Counsel, Pennsylvania Office of Consumer Advocate, Delaware
Division of the Public Advocate, Office of People's Counsel of the District of
Columbia and New Jersey Division of the Ratepayer Advocate (Joint Consumer
Advocates) ^
Mid-Atlantic Power Supply Assn. (MAPSA)#
Midwest Independent Transmission System Operator, Inc.
Morgan Stanley Capital Group Inc. (Morgan Stanley)#
National Rural Electric Cooperative Assn.
New England Conference of Public Utility Commissioners and the Vermont Department
of Public Service (NECPUC)
New England Public Power Systems (Connecticut Municipal Electric Energy Cooperative,
Massachusetts Municipal Wholesale Electric Company, Vermont Public Power
Supply Assn., Chicopee Municipal Lighting Plant, Westfield Gas and Electric Light
Department, South Hadley Electric Light Department, Braintree Electric Light
Department, Reading Municipal Light Department and Taunton Municipal Lighting
Plant)
New York Independent System Operator, Inc. (NYISO)
Norton Energy Storage L.L.C.

NRG Energy, Inc., NRG Power Marketing, Inc. and NRG Thermal Corp.
Ohio Rural Electric Cooperatives, Inc. and Buckeye Power, Inc. (Buckeye)#
Old Dominion Electric Cooperative (ODEC)^
Ontario Power Generation Inc. (Ontario Power)#
Ontario Independent Electricity Market Operator
Pennsylvania Public Utility Commission (Pennsylvania Commission)* ^
PG&E National Energy Group, Inc.
PJM Industrial Customer Coalition (PJM Industrial Customers)^
PPL EnergyPlus, LLC
The Public Power Association of New Jersey
Public Service Commission of the District of Columbia* #
Public Service Commission of Maryland (Maryland Commission)* # ^
Public Service Commission of the State of New York (New York Commission)
Reliant Energy Northeast Generation, Inc. (Reliant)#
Shell Energy Services Company, L.L.C. (Shell)#
Southern Energy Chalk Point, LLC, Southern Energy Mid-Atlantic, LLC, Southern Energy
Peaker, LLC and Southern Energy Potomac River, LLC (Southern Generators or
Southern Energy)# ^
Tenaska, Inc.
Tractebel Energy Marketing, Inc. and Tractebel Power, Inc. (Tractebel)#
TransEnergie U.S. Ltd. (TransEnergie)#
The Williams Companies (Williams)#

* Notice of Intervention
** Comment without Intervention
Comment (with Intervention)
^ Protest

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

PJM Interconnection, L.L.C.
Allegheny Electric Cooperative, Inc.
Atlantic City Electric Company
Baltimore Gas & Electric Company
Delmarva Power & Light Company
Jersey Central Power & Light Company
Metropolitan Edison Company
PECO Energy Company
Pennsylvania Electric Company
PPL Electric Utilities Corporation
Potomac Electric Power Company
Public Service Electric & Gas Company
UGI Utilities Inc.

Docket No. RT01-2-000

(Issued July 12, 2001)

MASSEY, Commissioner, concurring:

In this order, the Commission expresses its intention to evaluate in the near future the importance of standardizing generation interconnection procedures. I've long advocated such standardization, so this is a big step in the right direction. But I would have been clearer and firmer in expressing our resolve to standardize interconnection procedures. For me, the time to evaluate whether to do so is past. It's time simply to do it.

Interconnection standardization is good for the market. Generators should make location decisions based on economics, not on the basis of a patchwork of idiosyncratic interconnection standards. Establishing uniform standards will be good for generation investment and good for consumers. And standardization would be an efficient use of the Commission's staff resources. It's no secret that the staff is laboring under a crushing work load. Processing a multitude of interconnection filings eats up staff time. Standardization will free staff for other important work.

Therefore, I concur with today's order.

William L. Massey
Commissioner

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Docket No. RT01-2-000

(Issued July 12, 2001)

Breathitt, Commissioner, dissenting, in part:

Since the Commission began promoting RTOs as a means to remove barriers and impediments to wholesale electricity markets, I have been fully committed to the goal of implementing RTOs. However, I am dissenting, in part, to express my objections to specific language in this order and other RTO orders on today's agenda supporting the creation of four RTOs in the country. I agree with the majority's claim that the Commission has been attempting to facilitate the development of large RTOs reflecting natural markets since we issued Order No. 2000. That was our stated goal and one that I have actively pursued. However, today's orders go further by stating that the Commission "favors the development of one RTO for the Northeast, one RTO for the Midwest, one RTO for the Southeast, and one RTO for the West." I do not necessarily favor such development.

When the Commission deliberated over how to attain our mutual objective of RTO formation, we decided to adopt an open collaborative process that relied on voluntary regional participation. The intent was to design RTOs so that they could be tailored to the specific needs of each region. We specifically declined to propose fixed or specific regional boundaries under section 202(a) of the FPA. Instead, we concluded, as a matter of policy, that we would not attempt to draw boundaries, based upon our conviction that transmission owners, market participants, and regulators in a particular region have a better understanding of the dynamics of the transmission system in that region, and that they should propose the appropriate scope and regional configuration of an RTO. We did not specifically endorse one particular scheme of RTO configuration, but opted instead to establish appropriate guidelines to aid in RTO development. In fact, our regulation

requires only that an appropriate region is one of sufficient scope and configuration to permit an RTO to maintain reliability, effectively perform its required functions, and support efficient and non-discriminatory power markets.

Today's order represents a dramatic departure from the approach we pursued in Order No. 2000 to the extent that it directs the formation of four specific RTOs. Just as some commenters to our RTO rulemaking feared, the Magic Markers have come out, and the boundaries are being drawn with little regard to the status and timing of RTO formation efforts in various regions of the country. This was not my intent at the time we issued Order No. 2000; and the events since we issued Order No. 2000 do not compel me to embrace this policy shift. Parties have spent many hours and countless resources in negotiations, collaborations, and complicated business strategy sessions to develop reasonable RTO approaches. The impact of the majority's directive that these four RTOs be formed could be to render these efforts useless and force parties to begin the difficult and time-consuming process anew. For example, the Midwest ISO -Alliance settlement, which the Commission approved and which represented a tremendous effort by many parties, could unravel.

If the majority believes that the Commission should depart from the basic philosophies embodied in Order No. 2000, then I believe it would be only appropriate to initiate a formal notice-and-comment rulemaking proceeding so that we could make a reasoned decision informed by the views of the stakeholders in this process – state commissions, chief among others.

Finally, I do not adopt the majority's assertion that forming larger RTOs will result in lower wholesale electricity prices. This is a laudable goal, and as such, I embrace it. As a general proposition, Order No. 2000 encouraged the development of large RTOs. However, the promise of lower wholesale electricity prices is one that I, as a federal official, am not willing to make to consumers at this time.

For these reasons, I respectfully dissent.

Linda K. Breathitt
Commissioner

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UGI Utilities Inc.

Docket No. RT01-2-000

(Issued July 12, 2001)

Wood, Commissioner, dissenting in part:

I support this order and write only to dissent on its treatment of one important item: the participation of small customers on PJM's members committee. Presently, small retail customers face significant barriers to becoming voting members of PJM, namely, \$5,000 annual membership fee and full exposure to the liability of a limited liability company.

I recognize that earlier PJM filings have made an exception for state consumers' counsels (or their equivalent), and this is good. However, it does not go far enough. Stakeholder processes, however they are used in RTOs/ISOs/transcos, should be all-inclusive, not just for commercial interests, but for end-users as well. They, after all, pay the bills. A \$5,000 annual fee for an individual residential or other small customers prevents reasonable inclusion of such members.

In the Northeast RTO settlement process, I hope parties will explore and adopt a comprehensive way for all customers to have meaningful participation in the process.

Respectfully submitted,

Pat Wood, III
Commissioner